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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 190605486-9486-01]

RIN 0694- AH79

Revisions to the Unverified List (UVL)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by removing eight (8) persons from the Unverified List (“UVL”) and correcting the name for one (1) person currently listed on the UVL. The eight persons are removed from the UVL on the basis that BIS was able to verify their *bona fides* because of an end-use check.

DATES: This rule is effective: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kevin Kurland, Director, Office of Enforcement Analysis, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-4255 or by email at UVLRequest@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Unverified List, found in supplement no. 6 to part 744 of the EAR, contains the names and addresses of foreign persons who are or have been parties to a transaction, as such parties are described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR, and whose *bona fides* (i.e., legitimacy and reliability relating to the end use and end user of items subject to the EAR) BIS has been unable to verify through an end-use check. BIS may add persons to the UVL when BIS or federal officials acting on BIS's behalf have been unable to verify a foreign person's *bona fides* because an end-use check, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for such purposes for reasons outside the U.S. Government's control.

There are occasions where, for a number of reasons, end-use checks cannot be completed. These include reasons unrelated to the cooperation of the foreign party subject to the end-use check. For example, BIS sometimes initiates end-use checks and cannot find a foreign party at the address indicated on export documents and cannot locate the party by telephone or email. Additionally, BIS sometimes is unable to conduct end-use checks when host government agencies do not respond to requests to conduct end-use checks, prevent the scheduling of such checks, or refuse to schedule them in a timely manner. Under these circumstances, although BIS has an interest in informing the public of its inability to verify the foreign party's *bona fides*, there may not be sufficient information to add the foreign person at issue to the Entity

List under § 744.11 of the EAR (Criteria for revising the Entity List). In such circumstances, BIS may add the foreign person to the UVL.

Furthermore, BIS sometimes conducts end-use checks but cannot verify the *bona fides* of a foreign party. For example, BIS may be unable to verify *bona fides* if, during the conduct of an end-use check, a recipient of items subject to the EAR is unable to produce the items that are the subject of the end-use check for visual inspection or provide sufficient documentation or other evidence to confirm the disposition of the items. The inability of foreign persons subject to end-use checks to demonstrate their *bona fides* raises concerns about the suitability of such persons as participants in future exports, reexports, or transfers (in-country) of items subject to the EAR and indicates a risk that such items may be diverted to prohibited end uses and/or end users. However, BIS may not have sufficient information to establish that such persons are involved in activities described in parts 744 or 746 of the EAR, preventing the placement of the persons on the Entity List. In such circumstances, the foreign persons may be added to the Unverified List.

As provided in § 740.2(a)(17) of the EAR, the use of license exceptions for exports, reexports, and transfers (in-country) involving a party or parties to the transaction who are listed on the UVL is suspended. Additionally, under § 744.15(b) of the EAR, there is a requirement for exporters, reexporters, and transferors to obtain (and keep a record of) a UVL statement from a party or parties to the transaction who are listed on the UVL before proceeding with exports, reexports, and transfers (in-country) to such persons, when the exports, reexports and transfers (in-country) are not subject to a license requirement.

Requests for removal of a UVL entry must be made in accordance with § 744.15(d) of the EAR. Decisions regarding the removal or modification of UVL listings will be made by

the Deputy Assistant Secretary for Export Enforcement, based on a demonstration by the listed person of its *bona fides*.

Changes to the EAR

Supplement No. 6 to Part 744 (“the Unverified List” or “UVL”)

This rule corrects the name for one person currently listed on the UVL under the destination of China, Beijing Institute of Nanoenergy and Technology. BIS was notified that the person’s correct name is Beijing Institute of Nanoenergy and Nanosystems.

Finally, this rule removes eight persons from the UVL. BIS is removing these persons pursuant to § 744.15(c)(2) of the EAR. This final rule implements the decision to remove the following eight persons located in China from the UVL:

China:

- (1) Beijing Bayi Space LCD Materials Technology Co., Ltd, Dongfeng Rd, Yanshan, Beijing, China;
- (2) Hubei Flying Optical, No 1, Changfei Avenue, Yanhua, Industrial Park, Jiangnan Oil Field, Qianjiang, China;
- (3) Sunder Tools (Changxing) Technology, Zhongtie Avenue Huaxi Industrial Area, Changxing County, Huzhou, Zhejiang Province, China 313100;
- (4) Wuhan Yifi Laser Equipment Co., Dingxin Industry Park, Jiayuan Road, Optics Valley, Hubei, Wuhan, China 430074;
- (5) Wuxi Hengling Technology Co. Ltd., Bldg C1, No. 999 East Gaolang Rd., Binhu District, Jiangsu Province, Wuxi City, China 214131;

(6) Xiamen Sanan Optoelectronics, Luling Road 1721-1725#, Ximing, Xiamen, China 361008;

(7) Zhejiang Xizi Aviation, No. 277 Xinken Road, Qianjin, Technological Development Area, Zhejiang, China 311222; and

(8) Zolix Instruments Co., LDUV 68B, No. 16 Huanke Middle Rd, Tongzhou Zone, Tongzhou District, Beijing, China 101102.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (Title XVII, Subtitle B of Pub. L. 115-232) that provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule. As set forth in Section 1768 of ECRA, all delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action that have been made, issued, conducted, or allowed to become effective under the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) (as in effect prior to August 13, 2018, and as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 8, 2018, 83 FR 39871 (August 13, 2018)), or the Export Administration Regulations, and are in effect as of August 13, 2018, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under the authority of ECRA.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

2. Pursuant to Section 1762 of the Export Control Reform Act of 2018 (Title XVII, Subtitle B of Pub. L. 115-232), which was included in the John S. McCain National Defense Authorization Act for Fiscal Year 2019, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation and delay in effective date. The analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable because no general notice of proposed rulemaking was required for this action. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

3. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under the following control numbers: 0694-0088, 0694-0122, 0694-0134, and 0694-0137.

This rule slightly decreases public burden in a collection of information approved by OMB under control number 0694-0088, which authorizes, among other things, export license applications. The restoration of license exceptions for listed persons on the Unverified List will result in decreased license applications being submitted to BIS by exporters. Total burden hours associated with the Paperwork Reduction Act and OMB control number 0694-0088 are expected to decrease minimally, as the restoration of license exceptions will only affect transactions involving persons removed from the Unverified List and not all export transactions. Because license exception eligibility is restored for these entities removed from the UVL, this rule increases public burden in a collection of information approved by OMB under control number 0694-0137 minimally, as this will only affect specific individual listed persons. The decreased burden under 0694-0088 is reciprocal to the increased burden under 0694-0137, and results in no change of burden to the public. This rule also decreases public burden in a collection of information under OMB control number 0694-0122, as a result of the exchange of UVL statements between private parties, and under OMB control number 0694-0134, as a result of appeals from persons listed on the UVL for removal of their listing. The total decrease in burden hours associated with both of these collections is expected to be minimal, as they involve a limited number of persons listed on the UVL.

Any comments regarding these collections of information, including suggestions for reducing the burden, may be sent to OMB Desk Officer, New Executive Office Building, Washington, D.C. 20503; and to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to Jasmeet_K._Seehra@omb.eop.gov, or by fax to (202) 395-7285.

4. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730 through 774) is amended as follows:

PART 744 - [AMENDED]

1. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: Pub. L. 115-232, Title XVII, Subtitle B, 132 Stat. 2208 (to be codified at 50 U.S.C. 4801 et seq.); 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 3201 et seq.; 42 U.S.C. 2139a; 22 U.S.C. 7201 et seq.; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 8, 2018, 83 FR 39871 (August 13, 2018); Notice of September 19, 2018, 83 FR 47799 (September 20, 2018); Notice of November 8, 2018, 83 FR 56253 (November 9, 2019); Notice of January 16, 2019, 84 FR 127 (January 18, 2019).

2. Supplement No. 6 to Part 744 is amended by:

- a. Removing the entry for “Beijing Bayi Space LCD Materials Technology Co., Ltd.” under “China”;
- b. Revising the entry for “Beijing Institute of Nanoenergy and Technology” under “China”;
- c. Removing the entry for “Hubei Flying Optical” under “China”;
- d. Removing the entry for “Sunder Tools (Changxing) Technology” under “China”;
- e. Removing the entry for “Wuhan Yifi Laser Equipment Co.” under “China”;
- f. Removing the entry for “Wuxi Hengling Technology Co. Ltd.” under “China”;
- g. Removing the entry for “Xiamen Sanan Optoelectronics” under “China”;
- h. Removing the entry for “Zhejiang Xizi Aviation” under “China”; and
- i. Removing the entry for “Zolix Instruments Co.” under “China”.

The revision reads as follows:

SUPPLEMENT NO. 6 TO PART 744 – UNVERIFIED LIST

Country	Listed person and address	FEDERAL REGISTER citation and date of publication
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CHINA	Beijing Institute of Nanoenergy and Nanosystems 30 Xue YuanLu HaiDianQu Beijing, China 100083	84 FR 14610, 04/11/19. 84 FR [INSERT FEDERAL REGISTER PAGE NUMBER AND DATE OF PUBLICATION]
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Dated: June 21, 2019.

Richard E. Ashooh,

Assistant Secretary for Export Administration,

Bureau of Industry and Security.

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